

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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STATE OF NEW YORK, STATE OF ILLINOIS, STATE OF
MARYLAND, STATE OF WASHINGTON,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF HEALTH AND
HUMAN SERVICES,

Defendant.

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MORGANNE MILES, by her mother KRYSTAL TITUS;
OLIVIA MILES, by her mother KRYSTAL TITUS;
PASCALE MOSSIN, by her mother AMY MARGARET
MCCUTCIN; THEO CHAN, by his father SUNNY CHAN;
LEAH CHAN, by her father, SUNNY CHAN,

Plaintiffs,

v.

MICHAEL O. LEAVITT, Secretary, United States Department
of Health and Human Services,

Defendant.

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: MAY 02 2008

07 Civ. 8621 (PAC)

ECF CASE

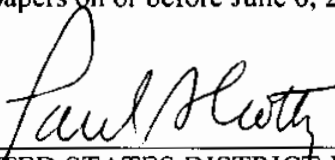
08 Civ. 432 (PAC)

ECF CASE

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ORDER

The scheduling order entered in these related matters on February 13, 2008, is amended
as follows.

1. Defendants shall file their reply and opposition papers on or before May 16, 2008.
2. All plaintiffs shall file their reply papers on or before June 6, 2008.


MAY 02 2008
UNITED STATES DISTRICT JUDGE



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*86 Chambers Street, 3rd floor
New York, New York 10007*

May 1, 2008

BY EMAIL

The Honorable Paul A. Crotty
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street, Room 735
New York, New York 10007

*Re: State of New York, et al. v. Dep't of Health & Human Svcs., 07 Civ. 8621 (PAC);
Miles, et al. v. Leavitt, 08 Civ. 432 (PAC)*

Dear Judge Crotty:

This Office represents the defendants in the above-captioned related matters, in which plaintiffs seek to challenge policy guidance recently disseminated by the Centers for Medicare and Medicaid Services ("CMS") regarding the State Children's Health Insurance Program ("SCHIP"). Pursuant to a stipulated briefing schedule so-ordered by the Court, defendants moved to dismiss both cases on March 17, 2008. Plaintiffs filed their opposition and cross-motion papers on April 16, 2008, and *amicus curiae* briefs in support of plaintiffs were filed on April 23, 2008. The defendants' reply/cross-opposition papers are presently due on May 9, 2008.

In total, plaintiffs and their *amici* have submitted in excess of one hundred pages of briefing, as well as numerous declarations and exhibits. Given the large volume of the materials to which defendants must now respond, defendants respectfully request that their upcoming briefing deadline be extended by one week, *i.e.*, to May 16, 2008, in order to ensure that defendants have sufficient time to prepare their submission. This adjustment would require a corresponding one-week extension of the subsequent deadline for plaintiffs' cross-reply papers, from May 30, 2008 to June 6, 2008. A proposed order to this effect is attached.

I have consulted with counsel for all plaintiffs, who consent to this request. This is the defendants' first request for an extension in this matter.

Page 2

I thank the Court for its consideration of this request.

Respectfully,

MICHAEL J. GARCIA
United States Attorney
Southern District of New York

/s/ Serrin Turner
SERRIN TURNER
Assistant U.S. Attorney
Tel: (212) 637-2701

Encl.

cc: John Schwartz, Esq. (by email)
Bryan Hetherington, Esq. (by email)